

100–77, July 22, 1987, 101 Stat. 482, which is classified principally to chapter 119 (§11301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

The Adult Education and Family Literacy Act, referred to in subsec. (a)(1)(B), is title II of Pub. L. 113–128, July 22, 2014, 128 Stat. 1608, which is classified generally to subchapter II (§3271 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 6312, Pub. L. 89–10, title I, §1112, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3529, related to local educational agency plans, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2015—Pub. L. 114–95 amended section generally. Prior to amendment, section related to local educational agency plan to help low-achieving children meet challenging academic achievement standards.

2007—Subsec. (c)(1)(G). Pub. L. 110–134, §29(a)(1), substituted “education performance standards in effect under section 9836a(a)(1)(B) of title 42” for “performance standards established under section 9836a(a) of title 42”.

Subsec. (c)(2)(B). Pub. L. 110–134, §29(a)(2), substituted “education performance standards in effect under section 9836a(a)(1)(B) of title 42” for “Head Start performance standards as in effect under section 9836a(a) of title 42”.

2006—Subsec. (a)(1). Pub. L. 109–270 substituted “Carl D. Perkins Career and Technical Education Act of 2006” for “Carl D. Perkins Vocational and Technical Education Act of 1998”.

2002—Subsec. (b)(1)(F). Pub. L. 107–279 substituted “section 9622(b)(2) of this title” for “section 9010(b)(2) of this title”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§ 6313. Eligible school attendance areas

(a) Determination

(1) In general

A local educational agency shall use funds received under this part only in eligible school attendance areas.

(2) Eligible school attendance areas

For the purposes of this part—

(A) the term “school attendance area” means, in relation to a particular school, the geographical area in which the children who are normally served by that school reside; and

(B) the term “eligible school attendance area” means a school attendance area in which the percentage of children from low-income families is at least as high as the percentage of children from low-income families served by the local educational agency as a whole.

(3) Ranking order

(A) Ranking

Except as provided in subparagraph (B), if funds allocated in accordance with sub-

section (c) are insufficient to serve all eligible school attendance areas, a local educational agency shall—

(i) annually rank, without regard to grade spans, such agency’s eligible school attendance areas in which the concentration of children from low-income families exceeds 75 percent from highest to lowest according to the percentage of children from low-income families; and

(ii) serve such eligible school attendance areas in rank order.

(B) Exception

A local educational agency may lower the threshold in subparagraph (A)(i) to 50 percent for high schools served by such agency.

(4) Remaining funds

If funds remain after serving all eligible school attendance areas under paragraph (3), a local educational agency shall—

(A) annually rank such agency’s remaining eligible school attendance areas from highest to lowest either by grade span or for the entire local educational agency according to the percentage of children from low-income families; and

(B) serve such eligible school attendance areas in rank order either within each grade-span grouping or within the local educational agency as a whole.

(5) Measures

(A) In general

Except as provided in subparagraph (B), a local educational agency shall use the same measure of poverty, which measure shall be the number of children aged 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), the number of children in families receiving assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], or the number of children eligible to receive medical assistance under the Medicaid Program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

(i) to identify eligible school attendance areas;

(ii) to determine the ranking of each area; and

(iii) to determine allocations under subsection (c).

(B) Secondary schools

For measuring the number of students in low-income families in secondary schools, the local educational agency shall use the same measure of poverty, which shall be—

(i) the measure described under subparagraph (A); or

(ii) subject to meeting the conditions of subparagraph (C), an accurate estimate of the number of students in low-income families in a secondary school that is calculated by applying the average percent-

age of students in low-income families of the elementary school attendance areas as calculated under subparagraph (A) that feed into the secondary school to the number of students enrolled in such school.

(C) Measure of poverty

The local educational agency shall have the option to use the measure of poverty described in subparagraph (B)(ii) after—

- (i) conducting outreach to secondary schools within such agency to inform such schools of the option to use such measure; and
- (ii) a majority of such schools have approved the use of such measure.

(6) Exception

This subsection shall not apply to a local educational agency with a total enrollment of less than 1,000 children.

(7) Waiver for desegregation plans

The Secretary may approve a local educational agency's written request for a waiver of the requirements of subsections (a) and (c), and permit such agency to treat as eligible, and serve, any school that children attend with a State-ordered, court-ordered school desegregation plan or a plan that continues to be implemented in accordance with a State-ordered or court-ordered desegregation plan, if—

(A) the number of economically disadvantaged children enrolled in the school is at least 25 percent of the school's total enrollment; and

(B) the Secretary determines on the basis of a written request from such agency and in accordance with such criteria as the Secretary establishes, that approval of that request would further the purposes of this part.

(b) Local educational agency discretion

(1) In general

Notwithstanding subsection (a)(2), a local educational agency may—

(A) designate as eligible any school attendance area or school in which at least 35 percent of the children are from low-income families;

(B) use funds received under this part in a school that is not in an eligible school attendance area, if the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children in a participating school attendance area of such agency;

(C) designate and serve a school attendance area or school that is not eligible under this section, but that was eligible and that was served in the preceding fiscal year, but only for 1 additional fiscal year; and

(D) elect not to serve an eligible school attendance area or eligible school that has a higher percentage of children from low-income families if—

- (i) the school meets the comparability requirements of section 6321(c) of this title;
- (ii) the school is receiving supplemental funds from other State or local sources

that are spent according to the requirements of section 6314 or 6315 of this title; and

(iii) the funds expended from such other sources equal or exceed the amount that would be provided under this part.

(2) Special rule

Notwithstanding paragraph (1)(D), the number of children attending private elementary schools and secondary schools who are to receive services, and the assistance such children are to receive under this part, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under subparagraph (A).

(c) Allocations

(1) In general

A local educational agency shall allocate funds received under this part to eligible school attendance areas or eligible schools, identified under subsections (a) and (b), in rank order, on the basis of the total number of children from low-income families in each area or school.

(2) Special rule

(A) In general

Except as provided in subparagraph (B), the per-pupil amount of funds allocated to each school attendance area or school under paragraph (1) shall be at least 125 percent of the per-pupil amount of funds a local educational agency received for that year under the poverty criteria described by the local educational agency in the plan submitted under section 6312 of this title, except that this paragraph shall not apply to a local educational agency that only serves schools in which the percentage of such children is 35 percent or greater.

(B) Exception

A local educational agency may reduce the amount of funds allocated under subparagraph (A) for a school attendance area or school by the amount of any supplemental State and local funds expended in that school attendance area or school for programs that meet the requirements of section 6314 or 6315 of this title.

(3) Reservation of funds

(A) In general

A local educational agency shall reserve such funds as are necessary under this part, determined in accordance with subparagraphs (B) and (C), to provide services comparable to those provided to children in schools funded under this part to serve—

- (i) homeless children and youths, including providing educationally related support services to children in shelters and other locations where children may live;
- (ii) children in local institutions for neglected children; and
- (iii) if appropriate, children in local institutions for delinquent children, and neglected or delinquent children in community day programs.

(B) Method of determination

The share of funds determined under subparagraph (A) shall be determined—

- (i) based on the total allocation received by the local educational agency; and
- (ii) prior to any allowable expenditures or transfers by the local educational agency.

(C) Homeless children and youths

Funds reserved under subparagraph (A)(i) may be—

- (i) determined based on a needs assessment of homeless children and youths in the local educational agency, taking into consideration the number and needs of homeless children and youths in the local educational agency, and which needs assessment may be the same needs assessment as conducted under section 11433(b)(1) of title 42; and
- (ii) used to provide homeless children and youths with services not ordinarily provided to other students under this part, including providing—

- (I) funding for the liaison designated pursuant to section 11432(g)(1)(J)(ii) of title 42; and
- (II) transportation pursuant to section 11432(g)(1)(J)(iii) of such title.

(4) Financial incentives and rewards reservation

A local educational agency may reserve such funds as are necessary from those funds received by the local educational agency under subchapter II, and not more than 5 percent of those funds received by the local educational agency under subpart 2 of this part, to provide financial incentives and rewards to teachers who serve in schools eligible under this section and identified for comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of this title for the purpose of attracting and retaining qualified and effective teachers.

(5) Early childhood education

A local educational agency may reserve funds made available to carry out this section to provide early childhood education programs for eligible children.

(Pub. L. 89-10, title I, §1113, as added Pub. L. 107-110, title I, §101, Jan. 8, 2002, 115 Stat. 1469; amended Pub. L. 114-95, title I, §1007, Dec. 10, 2015, 129 Stat. 1859.)

Editorial Notes

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (a)(5)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (a)(5)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6313, Pub. L. 89-10, title I, §1113, as added Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat.

3532; amended Pub. L. 104-193, title I, §110(j)(1), Aug. 22, 1996, 110 Stat. 2172; Pub. L. 106-78, title VII, §752(b)(10), Oct. 22, 1999, 113 Stat. 1169, related to eligible school attendance areas, prior to the general amendment of this subchapter by Pub. L. 107-110.

AMENDMENTS

2015—Subsec. (a)(3). Pub. L. 114-95, §1007(1)(A), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: “If funds allocated in accordance with subsection (c) of this section are insufficient to serve all eligible school attendance areas, a local educational agency shall—

“(A) annually rank, without regard to grade spans, such agency’s eligible school attendance areas in which the concentration of children from low-income families exceeds 75 percent from highest to lowest according to the percentage of children from low-income families; and

“(B) serve such eligible school attendance areas in rank order.”

Subsec. (a)(5). Pub. L. 114-95, §1007(1)(B), added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: “The local educational agency shall use the same measure of poverty, which measure shall be the number of children ages 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for free and reduced priced lunches under the Richard B. Russell National School Lunch Act, the number of children in families receiving assistance under the State program funded under part A of title IV of the Social Security Act, or the number of children eligible to receive medical assistance under the Medicaid program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

“(A) to identify eligible school attendance areas;

“(B) to determine the ranking of each area; and

“(C) to determine allocations under subsection (c) of this section.”

Subsec. (b)(1)(D)(i). Pub. L. 114-95, §1007(2), made technical amendment to reference in original act which appears in text as reference to section 6321(c) of this title.

Subsec. (c)(3). Pub. L. 114-95, §1007(3)(A), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: “A local educational agency shall reserve such funds as are necessary under this part to provide services comparable to those provided to children in schools funded under this part to serve—

“(A) homeless children who do not attend participating schools, including providing educationally related support services to children in shelters and other locations where children may live;

“(B) children in local institutions for neglected children; and

“(C) if appropriate, children in local institutions for delinquent children, and neglected or delinquent children in community day school programs.”

Subsec. (c)(4). Pub. L. 114-95, §1007(3)(B), substituted “comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d)” for “school improvement, corrective action, and restructuring under section 6316(b)”.

Subsec. (c)(5). Pub. L. 114-95, §1007(3)(C), added par. (5).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

§ 6314. Schoolwide programs**(a) In general****(1) Use of funds for schoolwide programs****(A) Eligibility**

A local educational agency may consolidate and use funds under this part, together with other Federal, State, and local funds, in order to upgrade the entire educational program of a school that serves an eligible school attendance area in which not less than 40 percent of the children are from low-income families, or not less than 40 percent of the children enrolled in the school are from such families.

(B) Exception

A school that serves an eligible school attendance area in which less than 40 percent of the children are from low-income families, or a school for which less than 40 percent of the children enrolled in the school are from such families, may operate a schoolwide program under this section if the school receives a waiver from the State educational agency to do so, after taking into account how a schoolwide program will best serve the needs of the students in the school served under this part in improving academic achievement and other factors.

(2) Identification of students not required**(A) In general**

No school participating in a schoolwide program shall be required to identify—

- (i) particular children under this part as eligible to participate in a schoolwide program; or
- (ii) individual services as supplementary.

(B) Supplemental funds

In accordance with the method of determination described in section 6321(b)(2) of this title, a school participating in a schoolwide program shall use funds available to carry out this section only to supplement the amount of funds that would, in the absence of funds under this part, be made available from non-Federal sources for the school, including funds needed to provide services that are required by law for children with disabilities and English learners.

(3) Exemption from statutory and regulatory requirements**(A) Exemption**

Except as provided in paragraph (2), the Secretary may, through publication of a notice in the Federal Register, exempt schoolwide programs under this section from statutory or regulatory provisions of any other noncompetitive formula grant program administered by the Secretary (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), except as provided in section 613(a)(2)(D) of such Act (20 U.S.C. 1413(a)(2)(D))), or any discretionary grant program administered by the Secretary, to support schoolwide programs if the intent and purposes of such other programs are met.

(B) Requirements

A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, student and parental participation and involvement, services to private school children, comparability of services, maintenance of effort, uses of Federal funds to supplement, not supplant non-Federal funds (in accordance with the method of determination described in section 6321(b)(2) of this title), or the distribution of funds to State educational agencies or local educational agencies that apply to the receipt of funds from such programs.

(C) Records

A school that chooses to consolidate and use funds from different Federal programs under this section shall not be required to maintain separate fiscal accounting records, by program, that identify the specific activities supported by those particular funds as long as the school maintains records that demonstrate that the schoolwide program, considered as a whole, addresses the intent and purposes of each of the Federal programs that were consolidated to support the schoolwide program.

(b) Schoolwide program plan

An eligible school operating a schoolwide program shall develop a comprehensive plan (or amend a plan for such a program that was in existence on the day before December 10, 2015) that—

- (1) is developed during a 1-year period, unless—

- (A) the local educational agency determines, in consultation with the school, that less time is needed to develop and implement the schoolwide program; or

- (B) the school is operating a schoolwide program on the day before December 10, 2015, in which case such school may continue to operate such program, but shall develop amendments to its existing plan during the first year of assistance after that date to reflect the provisions of this section;

- (2) is developed with the involvement of parents and other members of the community to be served and individuals who will carry out such plan, including teachers, principals, other school leaders, paraprofessionals present in the school, administrators (including administrators of programs described in other parts of this subchapter), the local educational agency, to the extent feasible, tribes and tribal organizations present in the community, and, if appropriate, specialized instructional support personnel, technical assistance providers, school staff, if the plan relates to a secondary school, students, and other individuals determined by the school;

- (3) remains in effect for the duration of the school's participation under this part, except that the plan and its implementation shall be regularly monitored and revised as necessary based on student needs to ensure that all students are provided opportunities to meet the challenging State academic standards;